

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 97-227-T - ORDER NO. 97-432

MAY 21, 1997

IN RE: Request of Staff for a Declaratory Order) DECLARATORY
Regarding the Applicability of Certifi-) ORDER
cates of Public Convenience and Necessity)
to Exempt Zones, and the Applicability of)
Approved Tariffs Utilized by Holders of)
Certificates of Public Convenience and)
Necessity to Exempt Zones.)

This matter comes before the Public Service Commission of South Carolina (the Commission) on the request of the Commission Staff (the Staff) for a Declaratory Order on two transportation matters.

The first transportation matter has to do with an interpretation of S.C. Code Ann. Section 58-23-590(D)(Supp. 1996). The Section reads in part as follows "a carrier of household goods, before operating in an exempt zone provided in Section 58-23-60 in this State must obtain a certificate of fit, willing and able from the commission...." The question presented by Staff is as to the status of holders of Certificates of Public Convenience and Necessity, and their ability to operate in former exempt zones in light of the above quoted language. We note that S.C. Code Ann. Section 58-23-590(C)(1)(Supp. 1996) states that holders of Certificates of Public Convenience and Necessity must have proven that they were fit, willing and able to properly

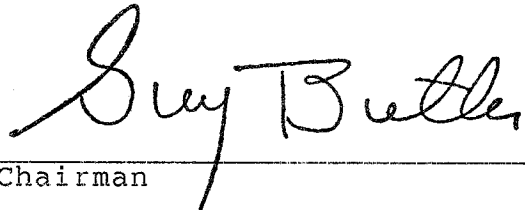
perform the proposed service at the time of their original application. Therefore, we believe and hold that carriers holding a Certificate of Public Convenience and Necessity also may operate in former exempt zones, since they have proven that they are entitled to a Certificate of Fit, Willing and Able when they came before the Commission and applied for a Certificate of Public Convenience and Necessity.

Second, Staff asks for an interpretation of whether or not carriers holding Class E Public Convenience and Necessity Certificates must follow approved tariffs while operating in former exempt zones. In examining the history of this matter, we note that S.C. Code Ann. Section 58-23-60(1) formerly exempted motor vehicles carrying on the business of transporting property within the limits of any municipality in this State from Commission jurisdiction. Therefore, the so-called "exempt zones" were non-regulated areas. For this reason, no price regulation was evident in exempt zones in the past. Further, the Commission's authority to issue Certificates of Fit, Willing and Able does not include the ability to regulate the rates of Certificate of FWA holders. See S.C. Code Ann. Section 58-23-590(D). Therefore, we must conclude that holders of Class E Certificates of Public Convenience and Necessity need not follow their approved tariffs on file with this Commission while operating in the former exempt zones. We hold that certificate holders of Public Convenience and Necessity must follow all tariff provisions outside of former exempt zones. We believe that this

holding puts Certificate of Public Convenience and Necessity holders on a level playing field with carriers holding Certificates of Fit, Willing and Able for work within former exempt zones.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)